

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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JAMES C. KISTNER,

Plaintiff,

vs.

Civil No.: 18-CV-00402

LAUREN McDERMOTT  
JENNY VELEZ  
KARL SCHULTZ, and  
KYLE MORIARITY, *et al.*,

Defendants.

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**NOTICE OF MOTION FOR PARTIAL SUMMARY JUDGMENT AGAINST  
DEFENDANTS McDERMOTT, VELEZ, SCHULTZ, AND MORIARITY**

<b>NATURE OF ACTION:</b>	Violation of Civil Rights.
<b>MOVING PARTY:</b>	Plaintiff, James C. Kistner.
<b>DATE AND TIME:</b>	To be determined by the Court.
<b>PLACE:</b>	Hon. Jeremiah J. McCarthy Robert H. Jackson United States Courthouse 2 Niagara Square Buffalo, New York 14202
<b>SUPPORTING PAPERS:</b>	Declaration of R. Antony Rupp III, Esq., sworn to on April 28, 2021, with exhibits; Declaration of Dr. Jennifer L. Yaek, PhD, P.E., sworn to on April 27, 2021, with exhibits; Local Rule 56 Statement of Material Facts, dated April 28, 2021; and accompanying memorandum of law.
<b>ANSWERING PAPERS:</b>	Pursuant to Local Rule 7(b), unless the Court issues an order otherwise.
<b>REPLY PAPERS:</b>	Plaintiff intends to submit reply papers.

**RELIEF REQUESTED:**

Pursuant to Rule 56, Plaintiff seeks an order granting summary judgment on his claims for false arrest, false imprisonment, and malicious prosecution, under Federal and New York State law, in addition to an order dismissing the defense of qualified immunity for Defendants McDermott, Velez, Schultz, and Moriarity.

**GROUND FOR RELIEF:**

Federal Rule of Civil Procedure 56, case law, and other authorities cited in the attached memorandum of law.

**ORAL ARGUMENT:**

Requested.

Dated: April 28, 2021  
Buffalo, New York

**RUPP BAASE PFALZGRAF CUNNINGHAM LLC**  
Attorneys for Plaintiff

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